

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 78 of 1984

with

FIRST APPEAL No 79 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

A'BAD MUNICIPAL CORPORATION

Versus

CANARA BANK

Appearance: (In both First Appeals)

MR AR THAKKAR for MR JR NANAVATI for Appellant

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/06/98

ORAL JUDGEMENT

The matter was called out for hearing in the first round, then in the second round and lastly in the third round, but none put appearance on behalf of the

respondent.

2. Heard the learned counsel for the appellant and perused the judgment of the Court below in this matter.

3. The respondent filed and appeals in the Small Cause Court at Ahmedabad, being M.V.Appeal Nos.353/81 and 2780/81, out of which the M.V.Appeal No.353/81 was against the assessment of the year 1980-81 and M.V.Appeal No.2780/81 was in respect of assessment year 1981-82, with regard to the premises bearing Final Plot No.88/7/B, situate in Kankaria T.P.S. ward against the Gross Rateable Value fixed by the Municipal Corporation, the appellant herein, at Rs.17,684/-.

4. It is not in dispute that the respondent herein, who was the appellant before the Small Cause Court, is a tenant in the premises aforesaid, where it is running the Kankaria Branch of its Bank in the said premises. The contractual rent which the respondent-tenant was paying was Rs.0.80 ps. per sq.ft. for the ground floor and Rs.0.70 ps. per sq.ft. for the Cellar. The Municipal Corporation has worked out the rent and fixed the gross rateable value according to the rent plus tax, at Rs.17,684/-. The Appellate Officer has confirmed the same value after hearing the objections of the respondent. Hence the respondent filed appeals before the Small Cause Court at Ahmedabad under Section 406 of the Bombay Provincial Municipal Corporations Act. Under the impugned order, both the appeals were allowed and the Gross Rateable Value for the premises was fixed at Rs.5,760/- for the years 1980-81 and 1981-82. Hence these First Appeals before this Court by the Municipal Corporation.

5. The learned counsel for the appellant-Municipal Corporation, relying on the Division Bench decision of this Court in the case of Municipal Corporation of the City of Ahmedabad v. Oriental Fire and General Insurance Co. Ltd., reported in 1994(2) GLH 433, contended that the respondent, being only a tenant in the premises, has no locus-standi to file the appeal against the assessment of Gross Rateable Value as assessed by the Assessing Officer of the Municipal Corporation and as such, these Appeals deserve to be accepted.

6. I have gone through the judgment of this Court in the case of Municipal Corporation of the City of Ahmedabad v. Oriental Fire and General Insurance Co. Ltd. (supra) and I am in agreement with the contention of the learned counsel for the appellant. As the

respondent has no locus-standi to file an appeal against the assessment of the Gross Rateable Value as fixed of the premises for the purpose of property tax, the judgment given by the Appellate Court impugned in these Appeals cannot be allowed to stand.

7. In the result, both these Appeals are allowed and the judgment of the Small Cause Court, Ahmedabad, in M.V.Appeals Nos.353/81 and 2780/81, dated 8th July 1983, is quashed and set aside. No order as to costs.

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(sunil)